



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1995 ASSEMBLY BILL 10**

March 9, 1995 – Offered by Representative CARPENTER.

1 **AN ACT to amend** 48.34 (intro.), 102.07 (13), 102.07 (14), 895.035 (2), 943.012
2 (intro.), 973.07 and 973.09 (7m) (a); and **to create** 48.245 (2g), 48.32 (1x), 48.34
3 (7t) and 943.017 of the statutes; **relating to:** marking property of others
4 without the owner’s consent and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 48.245 (2g) of the statutes is created to read:

6 48.245 (2g) If the informal disposition is based on an allegation that the child
7 violated s. 943.017 and the child has attained 12 years of age, the informal
8 disposition shall require that the child participate for not less than 10 hours nor more
9 than 100 hours in a supervised work program under s. 48.34 (9) or perform not less
10 than 10 hours nor more than 100 hours of other community service work, except that
11 if the child is 12 or 13 years of age the maximum number of hours is 40.

12 **SECTION 2.** 48.32 (1x) of the statutes is created to read:

13 48.32 (1x) If the petition alleges that the child violated s. 943.017 and the child
14 has attained 12 years of age, the judge or juvenile court commissioner shall require,

1 as a condition of the consent decree, that the child participate for not less than 10
2 hours nor more than 100 hours in a supervised work program under s. 48.34 (9) or
3 perform not less than 10 hours nor more than 100 hours of other community service
4 work, except that if the child is 12 or 13 years of age the maximum number of hours
5 is 40.

6 **SECTION 3.** 48.34 (intro.) of the statutes is amended to read:

7 **48.34 Disposition of child adjudged delinquent.** (intro.) If the judge
8 adjudges a child delinquent, he or she shall enter an order deciding one or more of
9 the dispositions of the case as provided in this section under a care and treatment
10 plan. Subsections (4m) and (8) are exclusive dispositions, except that either
11 disposition may be combined with the disposition under sub. (4p), (5), (7m), (7t) or
12 (15). The dispositions under this section are:

13 **SECTION 4.** 48.34 (7t) of the statutes is created to read:

14 48.34 (7t) If the child is adjudicated delinquent under a violation of s. 943.017,
15 the court shall require that the child participate for not less than 10 hours nor more
16 than 100 hours in a supervised work program under sub. (9) or perform not less than
17 10 hours nor more than 100 hours of other community service work, except that if
18 the child is 12 or 13 years of age the maximum number of hours is 40.

19 **SECTION 5.** 102.07 (13) of the statutes is amended to read:

20 102.07 (13) A child performing uncompensated community service work as a
21 result of an informal disposition under s. 48.245, a consent decree under s. 48.32 or
22 an order under s. 48.34 (7t) or (9) is an employe of the county in which the court
23 ordering the community service work is located. No compensation may be paid to
24 that employe for temporary disability during the healing period.

25 **SECTION 6.** 102.07 (14) of the statutes is amended to read:

1 102.07 (14) An adult performing uncompensated community service work
2 under s. 943.017 (3), 971.38, 973.03 (3), 973.05 (3) or 973.09 is an employe of the
3 county in which the district attorney requiring or the court ordering the community
4 service work is located. No compensation may be paid to that employe for temporary
5 disability during the healing period.

6 **SECTION 7.** 895.035 (2) of the statutes is amended to read:

7 895.035 (2) The parent or parents with custody of a minor child, in any
8 circumstances where he, she or they may not be liable under the common law, are
9 liable for damages to property, for the cost of repairing or replacing property or
10 removing the marking, drawing, writing or etching from property regarding a
11 violation under s. 943.017, for the value of unrecovered stolen property or for
12 personal injury attributable to a wilful, malicious or wanton act of the child. The
13 parent or parents with custody of their minor child are jointly and severally liable
14 with the child for the damages imposed under s. 943.51 for their child's violation of
15 s. 943.50.

16 **SECTION 8.** 943.012 (intro.) of the statutes is amended to read:

17 **943.012 (title) Criminal damage to or graffiti on religious and other**
18 **property.** (intro.) Whoever intentionally causes damage to, intentionally marks,
19 draws or writes with ink or another substance on or intentionally etches into any
20 physical property of another, without the person's consent and with knowledge of the
21 character of the property, is guilty of a Class E felony if the property consists of one
22 or more of the following:

23 **SECTION 9.** 943.017 of the statutes is created to read:

1 **943.017 Graffiti.** (1) Whoever intentionally marks, draws or writes with
2 paint, ink or another substance on or intentionally etches into the physical property
3 of another without the other person's consent is guilty of a Class A misdemeanor.

4 (2) Any person violating sub. (1) under any of the following circumstances is
5 guilty of a Class D felony:

6 (a) The property under sub. (1) is a vehicle or a highway, as defined in s. 943.01
7 (2) (a) 1., and the marking, drawing, writing or etching is of a kind which is likely to
8 cause injury to a person or further property damage.

9 (b) The property under sub. (1) belongs to a public utility or common carrier and
10 the marking, drawing, writing or etching is of a kind which is likely to impair the
11 services of the public utility or common carrier.

12 (c) The property under sub. (1) belongs to a person who is or was a witness, as
13 defined in s. 940.41 (3), or a grand or petit juror and the marking, drawing, writing
14 or etching was caused by reason of the owner's having attended or testified as a
15 witness or by reason of any verdict or indictment assented to by the owner.

16 (d) If the total property affected in violation of sub. (1) is reduced in value by
17 more than \$1,000. For the purposes of this paragraph, property is reduced in value
18 by the amount which it would cost to repair or replace it or to remove the marking,
19 drawing, writing or etching, whichever is less.

20 (e) The property affected is on state-owned land and is listed on the registry
21 under s. 943.01.

22 (3) (a) In addition to any other penalties that may apply to a crime under this
23 section, the court may require that a convicted defendant perform 100 hours of
24 community service work for an individual, a public agency or a nonprofit charitable
25 organization. The court may order community service work that is designed to show

1 the defendant the impact of his or her wrongdoing. The court shall allow the victim
2 to make suggestions regarding appropriate community service work. If the court
3 orders community service work, the court shall ensure that the defendant receives
4 a written statement of the community service order and that the community service
5 order is monitored.

6 (b) Any individual, organization or agency acting in good faith to whom or to
7 which a defendant is assigned pursuant to an order under this subsection has
8 immunity from any civil liability in excess of \$25,000 for acts or omissions by or
9 impacting on the defendant.

10 (c) This subsection applies whether the court imposes a sentence or places the
11 defendant on probation.

12 (d) If the defendant is not placed on probation and the court orders community
13 service work, the court shall specify in its order under this subsection the method of
14 monitoring the defendant's compliance with this subsection and the deadline for
15 completing the work that is ordered. The court shall inform the defendant of the
16 potential penalties for noncompliance that would apply under s. 973.07.

17 (4) If more than one item of property is marked, drawn or written upon or
18 etched into under a single intent and design, the markings, drawings or writings on
19 or etchings into all the property may be prosecuted as a single forfeiture crime.

20 (5) In any case under this section involving more than one act of marking,
21 drawing, writing or etching but prosecuted as a single crime, it is sufficient to allege
22 generally that unlawful marking, drawing or writing on or etching into property was
23 committed between certain dates. At the trial, evidence may be given of any such
24 unlawful marking, drawing, writing or etching that was committed on or between
25 the dates alleged.

1 **SECTION 10.** 973.07 of the statutes is amended to read:

2 **973.07** (title) **Failure to pay fine or costs or to comply with certain**
3 **community service work.** If the fine, costs, penalty assessment, jail assessment,
4 crime victim and witness assistance surcharge, applicable deoxyribonucleic acid
5 analysis surcharge, applicable drug abuse program improvement surcharge,
6 applicable domestic abuse assessment, applicable driver improvement surcharge,
7 applicable weapons assessment, applicable uninsured employer assessment,
8 applicable environmental assessment, applicable wild animal protection
9 assessment, applicable natural resources assessment and applicable natural
10 resources restitution payments are not paid or community service work under s.
11 943.017 (3) is not completed as required by the sentence, the defendant may be
12 committed to the county jail until the fine, costs, penalty assessment, jail
13 assessment, crime victim and witness assistance surcharge, applicable
14 deoxyribonucleic acid analysis surcharge, applicable drug abuse program
15 improvement surcharge, applicable domestic abuse assessment, applicable driver
16 improvement surcharge, applicable weapons assessment, applicable uninsured
17 employer assessment, applicable environmental assessment, applicable wild animal
18 protection assessment, applicable natural resources assessment or applicable
19 natural resources restitution payments are paid or discharged, or the community
20 service work under s. 943.017 (3) is completed, for a period fixed by the court not to
21 exceed 6 months.

22 **SECTION 11.** 973.09 (7m) (a) of the statutes is amended to read:

23 **973.09 (7m)** (a) ~~The~~ Except as provided in s. 943.017 (3), the court may require
24 as a condition of probation that the probationer perform community service work for
25 a public agency or a nonprofit charitable organization. The number of hours of work

1 required may not exceed what would be reasonable considering the seriousness of the
2 offense and any other offense which is read into the record at the time of conviction.

3 An order may only apply if agreed to by the probationer and the organization or
4 agency. The court shall ensure that the probationer is provided a written statement
5 of the terms of the community service order and that the community service order
6 is monitored. If the court requires the conditions provided in this subsection and sub.
7 (4), the probationer reduces the period of confinement under sub. (4) at a rate of one
8 day for each 3 days of work performed. A day of work equals 8 hours of work
9 performed.

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(END)